PB-217 719

DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... TEXAS

Public Health Service
Washington, D. C.

September 1958

DISTRIBUTED BY:

NTIS

National Technical Information Service
U. S. DEPARTMENT OF COMMERCE
5285 Port Royal Road, Springfield Va. 22151

TD 420
Ref.

LIBRARY
SANITARY ENGINEERING CENTER
CINCINNATI, OHIO

PB 217 719

Digest of WATER POLLUTION CONTROL LEGISLATION ... Texas

Reproduced by
NATIONAL TECHNICAL
INFORMATION SERVICE
U S Department of Commerce
Springfield VA 22151

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF TEXAS WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The State Board of Health is charged with the duty of enforcing the pollution laws of the State (Art. 4444)[1/]. The Governor appoints an inspector to act under the direction of the Board and the Commissioner of Health (formerly State Health Officer). The inspector makes investigations, inspections and reports and performs other duties in respect to the enforcement of the Act (Ibid).

The State Department of Health is charged with the responsibility of protecting the public water supplies and passing on sewage disposal systems in order to protect such supplies (Art. 4477-1, secs. 5, 10, 12, 13, 20; 1957 Cum. Supp., Art. 4477-1, sec. 5).

The Water Pollution Advisory Council is authorized to cooperate with other agencies, affected groups and industry in effecting the purposes of the Act (Art. 7621a, sec. 2).

The State Board of Water Engineers makes rules and regulations for, among other things, the drilling, plugging and casing of wells to prevent salt water or other substances injurious to vegetation or agriculture from escaping into any other water bearing strata or the surface of the ground (Penal Code, Art. 848a).

The Railroad Commission is authorized to make rules and regulations in connection with the operation, abandonment and proper plugging of oil and gas wells to prevent the pollution of State surface and sub-surface waters (1957 Cum. Supp., Art. 6029a).

1/ Citations in this digest refer to Vernon's Civil Statutes of Texas Annotated, and the 1957 Cumulative Supplement thereto, unless otherwise noted.

The Commissioner of the General Land Office is authorized to adopt rules and regulations for the prevention of pollution of State waters by persons engaging in oil and gas development in water, on islands, river beds, and channels. The Commissioner can call on the Game, Fish and Oyster Commissioner for assistance in the adoption and enforcement of such rules and regulations. The Commissioner can also cancel a permit or lease for failure of an owner to comply with the rules and regulations (Art. 5351). The Commissioner also makes rules and regulations for the prevention of pollution from oil and gas operations on gulf lands (Art. 5366).

II. ADMINISTRATIVE ORGANIZATION

A. State Board of Health

1. Composition and organization

The Board consists of nine members, appointed by the Governor and confirmed by the Senate for six-year terms, except as to those first appointed. Six members must be practicing physicians, one must be a dentist, one must be a pharmacist and one a civil engineer. The Commissioner of Health (formerly the State Health Officer) is a member ex officio without the right to vote. The Board elects a Chairman and a Vice Chairman from among its members. A majority of the members, exclusive of the ex officio member, constitute a quorum. The Board meets quarterly on a date fixed by it at Austin. It holds such special meetings as are called by the Commissioner of Health or by any two members of the Board (Arts. 4415a, 4416a; 1957 Cum. Supp., 4418b-1).

2. Powers and duties

The Board has the general supervision and control of all matters pertaining to the health of the citizens of the State (Art. 4419). The Board's jurisdiction relating to pollution extends to any public water

from which water is taken for the uses of farm livestock, and domestic purposes (Art. 4444).

The Board, or any duly authorized person, is empowered to enter any building for the purpose of making examination and inspection and for the discovery and suppression of disease and the enforcement of the rules of the sanitary code, any health law, sanitary law, or quarantine regulation of the State (Art. 4420).

The Board is further authorized to administer oaths, and to summon witnesses and compel their attendance in all appropriate matters such as the detection of nuisances and the investigation of public water supplies (Art. 4421). It also is empowered to adopt rules for its own procedure, a copy of which must be filed in the State Department of Health (Art. 4418a).

B. Water Pollution Advisory Council

1. Composition and organization

The Council consists of the Commissioner of Health (formerly known as the State Health Officer), the Executive Secretary of the State Game and Fish Commission, the Chairman of the State Board of Water Engineers, the Chairman of the Railroad Commission, and the Attorney General, who serve ex officio as members of the Council. Each member is authorized to delegate a personal representative from his respective office to represent him on the Council. The Council elects a Chairman and Secretary from among its members. It meets on the first Monday of each month in Austin, and as often as may be decided by a majority of the Council (Art. 7621, sec. 2; 1957 Cum. Supp., Art. 4418b-1).

2. Powers and duties

The Council is authorized to cooperate with other agencies, affected groups and industry, in effecting the purposes of the Act. It is

empowered to encourage and conduct studies and collect and disseminate information relating to water pollution and the control, prevention, and abatement thereof (Art. 7621a, sec. 2).

3. Preservation of existing rights and remedies

Nothing in the Act is to be construed to abridge or alter causes of action, nor is any provision of the Act to be construed as estopping the State or any municipality or person, as riparian owners, or otherwise, in the exercise of their rights in equity or under common or statutory law in suppressing nuisances or in abating pollution (Art. 7621a, sec. 3).

4. Statement of policy

The Act declares it to be the public policy of the State to conserve its waters for public water supplies, for domestic, municipal, agricultural, industrial, recreational uses, for the propagation of fish and aquatic life, and for other beneficial uses by establishing a comprehensive program for the prevention, abatement, and control of pollution (Art. 7621a, sec. 1).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is a misdemeanor for anyone to throw waste paper, glass, metal, garbage or any other noxious or poisonous substances detrimental to fish or to persons fishing into the waters or near the waters of Lake Lavon, Collin County. Violation is punishable by a fine of not less than $25.00 nor more than $100.00 (Laws of Texas, 1957, Ch. 55).

The Texas Board of Water Engineers is authorized and directed to study all salt springs, gypsum beds, and other sources of natural pollution to tributaries of the Red River; and to study means of eliminating such natural pollution and to prevent such pollution from reaching the

Red River (Laws of Texas, 1957, Ch. 362).

It is unlawful for anyone to deposit the carcass of any dead animal or any refuse of any character in any canal, lateral, reservoir or lake, used for irrigation, milling, mining, manufacturing, power development, domestic purposes or for stockraising. Violators are subject to a fine of not less than $10.00 nor more than $100.00, or imprisonment for a term not exceeding 6 months, or both (Penal Code, Art. 1362).

It is unlawful for anyone to pollute any public surface water of the State. Violation carries a fine of not less than $100.00 nor more than $200.00. Each day the violation is continued is a separate offense. This Article does not apply to any municipal corporation which discharges its sewerage into the tide waters of the State at a point where the tide ebbs and flows, provided that such discharge does not render such water harmful to public health, oyster beds, fish life or bathing places in such waters (Penal Code, Art. 698b).

Anyone who willfully poisons any spring, well, cistern, or reservoir with intent to kill or injure any other person, is subject to imprisonment in the penitentiary for not less than 2 nor more than 10 years (Penal Code, Art. 1197).

It is unlawful for anyone to pollute any public water, by depositing therein any crude petroleum, oil or other like substance, or to pollute any such waters which are used for livestock, drinking and domestic purposes, by the discharge of any sewage or other polluting matter therein. This Article does not apply to any place or manufacturing plant whose effluents contain no organic matter that will putrify, any poisonous compounds, or any bacteria dangerous to public health or destructive of the fish life of streams

or other public bodies of water. Upon conviction, the Court issues an injunction, and a violation of the injunction is punishable by a fine or imprisonment. The State Board of Health enforces this Act when it affects the public health, and the Game, Fish and Oyster Commissioner enforces the Act when it affects fish and oysters (Art. 4444).

Municipalities having a population of 5000 or less, and all others supplying drinking water through a waterworks system to the public, must first test the water chemically for any contaminated infusion of sand, dirt or filth, dangerous bacteria, or disease-bearing germs. Violation carries a fine of not to exceed $500.00 (Penal Code, Art. 699).

Any person who deposits in any canal, lateral, reservoir or lake, the carcass of a dead animal, or refuse of any kind is subject to a fine of not less than $10.00 nor more than $100.00, or imprisonment for a term not exceeding 6 months, or both (Art. 7577).